

ASSEMBLY BILL

No. 434

Introduced by Assembly Member Parra

February 15, 2005

An act to amend Section 14860 of the Financial Code, relating to credit unions.

LEGISLATIVE COUNSEL'S DIGEST

AB 434, as introduced, Parra. Credit unions: trusts and custodial agreements.

Existing law, the California Credit Union Law, provides for the regulation of credit unions by the Commissioner of Financial Institutions. The law authorizes a credit union to act as a trustee or custodian under a written trust instrument or custodial agreement created or organized in the United States that is part of a pension plan for its members, or groups or organizations of its members, and that qualifies or has qualified for specific tax treatment.

This bill would also authorize a credit union to act as a trustee or custodian under a written trust instrument or custodial agreement created or organized in the United States that is part of an education or medical plan for its members, or groups or organizations of its members, and that qualifies or has qualified for specific tax treatment.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14860 of the Financial Code is amended
2 to read:

1 14860. Except as provided in this section and Part 2
2 (commencing with Section 5100) of Division 5 of the Probate
3 Code, no credit union shall exercise trust powers except upon
4 qualifying as a trust company pursuant to Division 1
5 (commencing with Section 99).

6 (a) Notwithstanding any other provisions of law relating to
7 trusts and trust authority, subject to the regulations of the
8 commissioner, a credit union may act as a trustee or custodian,
9 and may receive reasonable compensation for so acting, under
10 any written trust instrument or custodial agreement created or
11 organized in the United States which is a part of a pension,
12 *education, or medical* plan for its members or groups or
13 organizations of its members, which qualifies or has qualified for
14 specific tax treatment under Section 220, 223, 401, 408, 408A,
15 457, or 530 of the Internal Revenue Code, Title 26 of the United
16 States Code, or any deferred compensation plan for the benefit of
17 the credit union's employees, provided the funds received
18 pursuant to these plans are invested as provided in Section 16040
19 of the Probate Code. All funds held by a credit union as trustee or
20 in a custodial capacity shall be maintained in accordance with
21 applicable laws and rules and regulations as may be promulgated
22 by the Secretary of Labor, the Secretary of the Treasury, or any
23 other authority exercising jurisdiction over the trust or custodial
24 accounts. The credit union shall maintain individual records for
25 each participant or beneficiary that show in detail all transactions
26 relating to the funds of each participant or beneficiary.

27 The trust instrument or agreement shall provide for the
28 appointment of a successor trustee or custodian by a person,
29 committee, corporation, or organization other than the credit
30 union or any person acting in his or her capacity as a director,
31 employee, or agent of the credit union, upon notice from the
32 credit union or the commissioner that the credit union is
33 unwilling or unable to continue to act as trustee or custodian.

34 (b) Shares may be issued in a revocable or irrevocable trust
35 subject to the following:

36 (1) When shares are issued in a revocable trust, the settlor
37 shall be a member of the credit union issuing the shares in his or
38 her own right. If the trust has joint settlers, who are husband and
39 wife, then only one settlor need be a member of the credit union.

1 (2) When shares are issued in an irrevocable trust, the settlor
2 or the beneficiary shall be a member of this credit union in his or
3 her own right. For purposes of this section, shares issued
4 pursuant to a pension plan authorized by this section shall be
5 treated as an irrevocable trust unless otherwise indicated in rules
6 and regulations issued by the commissioner.

7 (3) This subdivision does not apply to trust accounts
8 established prior to the effective date of this subdivision.

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